

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS**

CRAIG CUNNINGHAM, Plaintiff, v. Spring Oaks Capital LLC, John/Jane Does 1-5 Defendants.	§ § § § § Civil Action No. 4:20-cv-00383 § § § §

PLAINTIFF’S ORIGINAL COMPLAINT

1. The Plaintiff hereby files this lawsuit against Spring Oaks Capital LLC and John/Jane Does 1-5.
2. The Plaintiff is Craig Cunningham, a natural person, who resides in Plano, Texas.
3. Spring Oaks Capital LLC (hereinafter “Spring Oaks”) is a Virginia limited liability company who can be served via registered agent Corporation Services Company, 100 Shocke Slip Floor 2, Richmond, Virginia 23219.

4. John/Jane Does 1-4 are other liable parties currently unknown to the Plaintiff.

Jurisdiction and Venue

5. Jurisdiction of this court arises as the acts happened here and the Plaintiff resides and works in this District. *Tex. Civ. Prac. & Rem. Code § 17.042; see also 47 USC 227(b).*
6. Venue in this District is proper in that the Defendant(s) transact business here and the acts and transactions occurred here. *47 USC 227(b).*

FACTUAL ALLEGATIONS

7. Plaintiff received an unsolicited phone call from Spring Oaks on May 8, 2020 from telephone number 615-747-1635 to his cell phone. This call was made without his consent and was for a non-emergency purpose.
8. The 615 area code originates from Nashville, Tennessee. Defendant is a Virginia entity with no listed offices in the State of Tennessee.
9. Plaintiff, misled as to Defendant's true location, called the 615-747-1635 number back unaware of who it belonged to, thinking it possibly was a friend or loved one living in Tennessee.
10. Defendant answered Plaintiff's return phone call and Defendant admitted the

earlier missed call from Defendant was made using an automated dialer.

CAUSE OF ACTION

COUNT I

Violations of the Telephone Consumer Protection Act (hereinafter "TCPA")

11. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
12. The foregoing actions by the Defendants constitute breach of the TCPA by initiating a call using an automated telephone dialing system for a non-emergency purpose without Plaintiff's consent. These actions violate *47 USC 227(b)* and entitle Plaintiff to \$1,500.00 (fifteen hundred dollars) per call in damages as these were willful actions.

COUNT II

**Violations of the Fair Debt Collection Practices Act (hereafter “FDCPA”) 15
USC 1681 et.**

13. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
14. The foregoing actions by the Defendants constitute breach of the FDCPA by placing unsolicited and unwelcome phone call to the Plaintiff’s cell phone, making false or misleading representations to Plaintiff in the collection of a debt and failing in their communications to indicate the contact was being made in the collection of a debt.

COUNT III

Violations of the Texas Finance Code 392

15. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
16. The foregoing actions by the Defendants constitute breach of the Texas Finance

Code 392 by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone and by making false and misleading representations likely to deceive a consumer.

COUNT IV

Violations of the Texas Business and Commerce Code 305.053

17. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
18. The foregoing actions by the Defendants constitute breach of the *Texas Business and Commerce Code 305.053* by violating the TCPA 47 USC 227.

PRAYER FOR DAMAGES AND RELIEFS

WHEREFORE, Plaintiff Craig Cunningham, respectfully prays and requests that judgement be entered against each and every Defendant for the following:

1. Statutory damages of \$3,000.00 (three thousand dollars) for each text message in violation of the TCPA.

2. Statutory damages in the amount of \$1,500.00 (fifteen hundred dollars) for violations of the Texas Business and Commercial Code.

3. Damages of \$5,000.00 (five thousand dollars) per violation of the Texas Finance Code 392.

4. Punitive Damages of \$25,000.00 (twenty five thousand dollars) for violations of the Texas Finance Code and FDCPA.

5. Actual damages as determined by a judge/jury.

6. Pre-judgment interest from the date of the phone text messages at issue.

Respectfully submitted:

/s/ Leland McRae

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of Plaintiff's Original Complaint was served on all named Defendant(s), Spring Oaks Capital LLC who can be served via registered agent via registered agent Corporation Services Company, 100 Shocke Slip Floor 2, Richmond, Virginia 23219.

/s/ Leland McRae

Leland McRae

Attorney for Plaintiff

